STATE OF MAINE
DEPARTMENT OF CONSERVATION
LAND USE PLANNING COMMISSION
PO BOX 1107
GREENVILLE, MAINE
04441

PAUL RICHARD LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

PERMIT

SHORELAND ALTERATION PERMIT SA 1068-B
AND WATER QUALITY CERTIFICATION

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by the Appalachian Mountain Club for Shoreland Alternation Permit SA 1068-B, finds the following facts:

1. Applicant: AMC Maine Woods, Inc. & AMC Woods II, LLC (collectively "AMC")
   PO Box 310
   Greenville, Maine 04441

2. Agent: Wright -Pierce (Attention Joseph M. McLean, P.E.)
   99 Main Street
   Topsham, Maine 04086

3. Date of Completed Application: June 2, 2015

4. Location of Proposal: AMC's Medawisla Wilderness Lodge on Second Roach Pond
   Shawtown (TA R12 WELS), Plan 01, Lots 1 & 1.4
   T1 R12 WELS, Plan 01, Lots 2.1, 2.2 & 2.3
   Piscataquis County

5. Zoning: (D-RF) Recreation Facility Development Subdistrict
   (P-GP) Great Pond Protection Subdistrict
   (P-WL1) Wetland Protection Subdistrict

6. Affected Waterbody: Second Roach Pond, is a Resource Class 1B undeveloped accessible lake with significant scenic and fishery resources.

7. AMC's lot is developed with a waterfront commercial sporting camp. A rock dam with fish passage structure extends from the end of an existing filled fixed pier structure located on the shoreline of the site. The rock dam with fish passage structure extends across the pond onto AMC-owned land that is part of the Roaches Pond Tract Conservation Easement, which is held by the Bureau of Parks and Lands. The rock dam structure with fish passage controls the water elevation of Second Roach Pond and flow from the pond to the Roach River.

Background and Administrative History

8. On August 28, 2013, the LUPC issued Shoreland Alteration Permit SA 1068, with conditions, to AMC for the reconstruction of the existing rock dam on Second Roach Pond with integrated fish passage. Among the conditions of approval were requirements that the reconstructed dam not cause the water level of Second Roach Pond to be raised above the historic normal high water mark and that the fish passage, the lowest portion of the dam, "be permanently installed in such a manner as to ensure adequate flows [to the Roach River] are maintained."

9. On July 11, 2014, AMC commenced construction of the rock dam with fish passage as authorized by Shoreland Alteration Permit SA 1068.

10. On July 22, 2014, AMC requested and received emergency authorization to extend the dam an additional 85 feet.

11. On July 29, 2014, AMC submitted an application to amend Shoreland Alteration Permit SA 1068 to include the 85-foot extension. This application for amendment notes that 195 linear feet of shoreline will be affected (instead of the original 110 feet) and that 5,361 square feet of P-WL1 wetland will be altered (instead of the original 3,741 square feet). The 195 foot dam extended from the end of what AMC referred to in the application as a historic dock. The amendment application was deemed incomplete by the LUPC on October 10, 2014 and placed on hold. (The present application replaces the need for the July 29, 2014 amendment application.)

12. On August 8, 2014, AMC completed reconstruction of the dam with fish passage. The water level of Second Roach Pond had been lowered during construction and flow to the river had been maintained through a diversion channel. With construction complete, the diversion channel was closed and the coffer dam was removed. This resulted in blocked flow to the Roach River from Second Roach Pond.

13. On September 17, 2014, the LUPC issued AMC a Notice of Violation (EC 14-47) associated with the blockage of flow from Second Roach Pond to the Roach River for the period August 8 through 18, 2014. Among other things, EC-14-47 required as corrective actions, that AMC: (i) maintain flows into Roach River at approximately 8 cfs; and (ii) hire a new licensed engineer, to be approved by LUPC, to confirm pond elevations and flow levels.

14. On October 7, 2014, the Commission authorized the corrective action proposed by AMC and designed by its new engineer. AMC arranged for its contractor to complete the work and install temporary culvert pipes, with engineering oversight, in order to maximize flows for the spawning season. The corrective action worked as designed and intended.

15. On November 21, 2014, representatives of AMC, the LUPC, BPL, and IF&W met, along with AMC's engineers to discuss the information contained in the engineer's report and any potential modifications to the dam. The State agencies expressed concerns about: (a) the impact of the existing dam on the water level of Second Roach Pond and the associated impacts to adjacent emergent wetlands and significant wildlife habitat, (b) the potential for the existing dam to cause erosion and establish a new channel diverting flow around the dam, and (c) the performance of the dam during peak discharges from Second Roach Pond and the potential risk of impacts to the downstream dam at First Roach Pond operated by IF&W and downstream fish habitat. To address these concerns, the LUPC requested that AMC have its engineer prepare and analyze a dam design proposal that might be immediately implemented to avoid risk of adverse impacts during the spring melt of 2015.

16. On December 8, 2014, the LUPC issued Amendment A to Shoreland Alteration Permit SA 1068, which authorized modification of the dam as shown on the plan labeled, Concept #4 – Temporary Over Winter Condition, and required AMC to submit engineered plans for a final design for the rock dam and fish passage and a complete permit amendment application.

17. Between December 16 and December 19, 2014 AMC, through its contractor with oversight from its engineer, performed and completed the work on the dam authorized by Amendment A to SA 1068 as the Temporary Over Winter Conditions.

18. On December 29, 2014, AMC's engineer submitted an engineer's report, satisfying Condition #13 of Amendment A to SA 1068, which required AMC, upon completion of construction to submit a report

prepared by their licensed engineer certifying that the construction was completed in accordance with the approved Temporary Over Winter Condition plans.

19. On May 7, 2015, AMC signed a Settlement Agreement ratified by the Commission, which required AMC to submit a complete permit application amendment for a re-engineered rock dam with fish passage. The Settlement Agreement stipulated the following: a) the final plan shall be designed to achieve pond levels comparable to those that existed within five years immediately prior to the 2014 dam construction; b) the final plan shall be designed to provide fish passage, including at low water levels, and shall not reroute flow from Second Roach Pond around the dam or unreasonably increase downstream flooding risks; c) the final plan must be implemented during the 2015 low flow periods under the supervision of the engineering firm that designs the project or another qualified engineer; and d) any work authorized by the amended permit must comply with all conditions of any such amended permit.

20. On June 2, 2015, AMC submitted an application to amend the Shoreland Alteration Permit SA 1068 in accordance with the Settlement Agreement.

Proposal

21. Based on the information submitted, the applicant proposes to reconstruct the existing rock dam in accordance with the requirements and/or conditions of Amendment A to Shoreland Alteration Permit SA 1068 dated December 8, 2014 and the Commission ratified Settlement Agreement EC 14-47 recorded with the Piscataquis County Registry of Deeds on May 26, 2015. The proposed finished grade for the rock dam would have an approximately 312 foot wide secondary spillway and an additional 10 foot long section on the southwestern end of the dam with an elevation approximately 0.7 feet higher than the end of the 312 foot secondary spillway. Within the secondary spillway a 70 foot wide primary spillway leading to a roughened rock ramp fish-way is proposed. The primary spillway would have a centrally located approximately 2.5 foot wide low-flow fish-way channel. The approximately 70 foot wide primary spillway with low-flow fish-way channel would extend approximately 50 feet downstream on a 30:1 slope from the crest of the rock dam to a 10 foot wide channel entrance invert on a 3:1 slope into the Roach River. The elevations of the approximately 312 foot wide dam crest profile would taper from elevation 1267.7 on each end to elevation 1266.5 on each end of the 70 foot wide primary spillway. The primary spillway would taper from 1266.5 to 1266.4 on each end of the approximately 2.5 foot wide low-flow fish-way channel. The approximately 2.5 foot wide low-flow fish-way channel would be approximately .9 feet deep with tapered sides to a 1.5 foot wide channel bottom at elevation 1265.5. The proposed design would provide a hydraulic performance and pond level management regime that would be very similar to that which existed prior to 2013. The proposed rock-ramp style fish-way is designed to provide year round flows suitable for the passage of fish and other aquatic life.

22. The majority of the proposed design would fit within the footprint of the existing dam with fish passage. A survey of the dam as reconstructed in 2014 shows the dam, including what in prior application materials was identified as the historic dock, is 322 feet long. The majority of material for the redesigned / reconstructed dam with fish passage would be materials removed and re-used from the existing dam with fish passage. The proposed rock dam with fish passage would be constructed so the spillways and channel could endure flows from large storm events and maintain flows suitable for fish passage through the low-flow channel during low flow periods. Upon completion of the proposed dam reconstruction, the elevation and design of the rock dam with fish passage would allow uninterrupted seasonally fluctuating flows to Roach River and maintain water levels for Second Roach Pond that seasonally fluctuate from high water elevation 1267.05 to low water elevation 1266.55. The proposed construction would commence on or soon after July 15th and would be completed prior to October 1st, which would be during the seasonal low water and low flow period. The proposed construction is shown on plans prepared by Wright-Pierce entitled: "Appalachian Mountain Club Second Roach Pond Dam" in 7 sheets; Sheets C-1, C-2, C-3, C-6 & C-7 are dated May 29, 2015,

Sheets C-4 & C-5 are dated May 29, 2015 revised June 22, 2015 with the US Fish & Wildlife Service's recommended revisions to the dimensions of the fish-way low-flow channel.

23. The applicant proposes to manage water flow during the multi-phase construction process through the use of bypass culverts, sandbags and coffer dams to maintain a flow of at least 6 cubic feet per second (cfs). Water quality will be protected by installing / maintaining turbidity curtains and erosion / sediment control measures throughout the construction phases. By constructing in phases, the applicant will be able to provide a reasonable work area while effectively managing water flow. The four existing culverts will be removed and replaced with two 48 inch temporary bypass culverts along the eastern side of the project area. A Phase I cofferdam will be installed from the western upstream bank along the perimeter of the existing dam, then wrap around downstream along the temporary bypass culverts to the downstream limits of construction on the western downstream bank. This will encapsulate the work area for most of the rock dam and the entire fish passage structure. Pumps will be used to dewater the work area discharging into temporary hay bale sediment basins located on the shore. Upon completion of Phase I construction, the cofferdam will be removed and a Phase II coffer dam will be constructed to create a work area around the two 48 inch bypass culverts. The Phase II cofferdam will be installed in phases to maintain at least 6 cfs flow from Second Roach Pond to Roach River. The Phase II coffer dam will be constructed from the eastern upstream bank along the perimeter of the existing dam, then wrap around downstream along the temporary bypass culverts to the downstream limits of construction on the eastern downstream bank. This will encapsulate the work area for the bypass culverts and the remainder of the proposed rock dam project. The height of the coffer dam will be raised gradually with sand bags, all the while maintaining a flow of at least 6 cfs. Once the water level in Second Roach Pond is raised to a level that will provide at least 6 cfs across the Phase I section of the rock dam's spillway, the height of the Phase II coffer dam will be completed. Pumps will then be used to dewater the work area within the Phase II coffer dam discharging into temporary hay bale sediment basins located on the shore. During Phase II, the flow of at least 6 cfs will be flowing across the spillway constructed during Phase I, there will be no interruption of flow from Second Roach Pond to the Roach River. The temporary bypass culverts will be removed during the Phase II construction. After the culverts are removed, the remaining earthwork and rock work for the dam and spillway along the eastern end of the project will be completed. Upon completion of construction of the rock dam and spillway in Phase II the dam construction will be complete. At that time the coffer dam will be removed and all unused materials and construction equipment will be removed from the project site. After the site has been permanently stabilized, the remaining temporary erosion control measures will be removed.

24. The applicant proposes to minimize the disturbance of the wetlands, which includes the lake bottom, river bottom and over-wash area adjacent to the river. These wetland areas are zoned P-WL1 wetland of special significance. The majority of the footprint of the proposed dam with fish-way is approximately the same as the footprint of existing dam and fish-way reconstructed in 2014. Additionally, the proposed design of the rock dam with fish-way will not raise the elevation of Second Roach Pond so it will not impact any additional wetland areas that surround the pond. The Settlement Agreement EC 14-47 acknowledges that the rock dam with fish passage constructed in 2014 impacted wetlands of special significance that were not considered for impacts during the original permitting process. As a temporary corrective action, the Commission issued Amendment A to the Shoreland Alteration Permit SA 1068. That amendment authorized AMC to remove a section of the existing rock dam and the fish passage to lower the water level of Second Roach Pond to mitigate the adverse impacts caused by flooding the wetlands along the pond's shoreline. This was a temporary corrective action that needed follow-up work. To follow-up with a permanent solution, the Settlement Agreement required AMC to submit engineered plans for a final design of the rock dam and integrated fish passage, which would be designed to achieve pond levels that existed within 5 years immediately prior to the construction of the dam in 2014. The proposed final design submitted with this permit amendment application will achieve those pond levels with a moderate expansion of the existing structure's overall footprint on the wetlands areas. The expansion is needed for a dam design that requires a larger footprint due to the need to reduce the dam's height, which then requires a more gently sloping spillway design. A survey of the reconstructed dam revealed the 2014 rock dam reconstruction with fish

passage had a footprint of approximately 13,100 square feet. Included within this footprint is a small upland area previously referred to as the historic dock,[1] however, the remainder is predominantly P-WL1 wetland. This wetland area includes the footprint of the historic dam structure reconstructed in 2014.[2] The proposed rock dam with fish-way low-flow channel has a footprint of approximately 18,400 square feet. The majority of the increase in footprint is from the fish-way with low-flow channel and primary spillway that required a greater area for the 30:1 gentle slope of the structure that extends farther downstream than the former steeper sloped fish passage. This expansion impacts P-WL1 wetlands by reconfiguring the rock bottom of the lake bed and river channel. These impacts are similar to the impacts previously considered for the 2014 rock dam reconstruction with a steeper sloped fish passage. The final design presented in the present application was considered the best alternative to minimize adverse impacts to the wetlands, while achieving a properly functioning dam and providing desired fish passage. The no action alternative was not considered feasible since the Commission required the rock dam with fish-way to be reconstructed pursuant to the terms of the Settlement Agreement EC 14-47.

Review Criteria

25. Under provisions of Section 10.21,I,3,c(18), 10.23,E,3,c(22),and 10.23,N,3,c(16) of the Commission's Land Use Districts and Standards, water impoundments are allowed uses upon issuance of a permit from the Commission and subject to the applicable requirements set forth in Sub-Chapter III within (D-RF) Recreation Facility Development Subdistrict, (P-GP) Great Pond Protection Subdistrict, and (P-WL) Wetland Protection Subdistrict, respectively.

26. Under provisions of Sections: 10.21,I,3,c(11); 10.23,E,3,c(14); and 10.23,N,3,c(11) of the Commission's Land Use Districts and Standards, shoreland alterations, including reconstruction of permanent docking structures, and permanent on-shore structures used to secure docks and moorings; but excluding marinas, new or expanded permanent docking facilities, water-access ways, trailered ramps, hand-carry launches, and water crossings of minor flowing waters may be allowed upon issuance of a permit from the Commission within the (D-RF) Recreation Facility Development Subdistrict, (P-GP) Great Pond Protection Subdistrict, and (P-WL1) Wetland Protection Subdistrict, respectively.

27. Under provisions of Section 10.21,I,3,c(5), 10.23,E,3,c(7),and 10.23,N,3,c(6) of the Commission's Land Use Districts and Standards, filling, grading, and dredging, other than for riprap associated with water crossing and which are not in conformance with the standards of Section 10.27,F are allowed uses upon issuance of a permit from the Commission and subject to the applicable requirements set forth in Sub-Chapter III within (D-RF) Recreation Facility Development Subdistrict, (P-GP) Great Pond Protection Subdistrict, and (P-WL) Wetland Protection Subdistrict, respectively.

28. Under provisions of Section 10.25,C of the Commission's Land Use Districts and Standards, the applicant shall retain qualified consultants, contractors and staff to design and construct the proposed improvements, structures and facilities in accordance with the approved plans; and the applicant shall have adequate financial resources to construct the proposed improvements, structures and facilities and meet the criteria of all state and federal laws and standards of these rules.

29. Under provisions of Section 10.25,M of the Commission's Land Use Districts and Standards, Soil disturbance shall be kept to a practicable minimum. Permanent or temporary erosion and sedimentation control measures shall meet the standards and specifications of the "Maine Erosion and Sediment Control BMP's" (Maine Department of Environmental Protection, March 2003) or other equally effective practices.

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[1] Based on plans submitted by AMC's engineer in 2013 identifying the historic dock, the portion of this dock that is now part of the dam appears to be approximately 1,200 square feet.

[2] The area of P-WL1 wetland impacted by reconstruction of the dam in 2014 appears to be greater than estimated in the prior permit application and amendment application seeking approval of the 85 foot extension.

Areas of disturbed soils shall be stabilized according to the "Guidelines for Vegetative Stabilization" (Appendix B of this Chapter) or by alternative measures that are equally effective in stabilizing soils.

30. Under provisions of Section 10.25,P,1,b,(2) of the Commission's Land Use Districts and Standards, if a proposed activity requires a permit and will alter 500 or more square feet of a P-WL1 wetland or 20,000 or more square feet of a P-WL2 or P-WL3 wetland, the Commission may require, as a condition of approval, mitigation, including compensation, as provided in the Commission's General Land Use Standards in Section 10.25, P, 2.

31. Under provisions of Section 10.25,P,1,c,(3) of the Commission's Land Use Districts and Standards, Tier 3 reviews are for projects altering any area of P-WL1 wetlands, 15,000 up to 43,560 square feet (one acre) of P-WL2 or P-WL3 wetlands containing critically imperiled (S1) or imperiled (S2) natural communities, or one acre or more of P-WL2 or P-WL3 wetlands.

    Alterations of P-WL1 wetlands may be eligible for Tier 1 or 2 review if the Commission determines, at the applicant's request, that the activity will have no undue adverse impact on the freshwater wetlands or other protected natural resources present. In making this determination, consideration shall include but not be limited to, such factors as the size of the alteration, functions of the impacted area, existing development or character of the area in and around the alteration site, elevation differences and hydrological connection to surface water or other protected natural resources.

32. Under provisions of Section 10.25,P,2 of the Commission's Land Use Districts and Standards, projects requiring Tier 2 review must:

    A. Not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment. Each Tier 2 application must provide an analysis to the alternatives in order to demonstrate that a practicable alternative does not exist;
    B. Limit the amount of wetland to be altered to the minimum amount necessary to complete the project;
    C. Comply with applicable water quality standards; i.e., the activity will not violate any state water quality law, including those governing the classification of the State's waters. Projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters must comply with the water quality classification standards contained in 38 M.R.S.A. §465; and
    D. Use erosion control measures to prevent sedimentation of surface waters.
    E. For projects requiring Tier 2 review, the Commission may require compensation when it determines that a wetland alteration will cause a wetland function or functions to be lost or degraded as identified by an assessment of wetlands functions and values in accordance with application requirements or by the Commission's evaluation of the project. The Commission may waive the requirement for a functional assessment if it already possesses the information necessary to determine the functions of the area proposed to be altered. The Commission may waive the requirement for compensation if it determines that any impact to wetland functions and values from the activity will be insignificant.

33. Pursuant to 12 M.R.S. § 685-B(4), the Commission may not approve an application, unless, among other things, (a) adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses and natural resources in the area likely to be affected by the proposal, (b) the proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water, and (c) the proposal is otherwise in conformance with Chapter 206-A and the regulations, standards and plans adopted pursuant thereto. The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected.

Review Comments

34. The U.S. Army Corps of Engineers has received and is processing their application for Permit #NAE-2011-01663 for this project.

35. The Maine Department of Inland Fisheries and Wildlife reviewed the application and commented that the project will provide fish passage and meet minimum water flow requirements during construction. The design also appears to return the lake levels and river flows to pre-2014 levels. This will benefit the downstream fisheries and address their concerns regarding adverse impacts to the Inland Waterfowl and Wading Bird Habitat.

36. The Maine Department of Environmental Protection has reviewed the application and commented that the proposed rock dam appears to be in the same footprint except for a portion of the fish-way, but that will not result in any lost functions or values. This is consistent with the comments offered in 2013, which did not require mitigation for the dam reconstruction project.

37. The Piscataquis County Commissioners reviewed the application and have no objections.

38. The Maine Bureau of Parks and Lands (BPL) stated that if the engineered plans for reconstructing the dam with fish passage were designed to consider the normal seasonal fluctuations in pond water levels during the 5 years immediately prior to the 2014 dam reconstruction, as well as potential impacts to protected resources and the property as required by the Roaches Pond Tract Conservation Easement and the project complies with the terms Settlement Agreement EC 14-47, then BPL anticipates that the outstanding conservation easement violations identified in their September 29, 2014 letter would be resolved.

39. The Maine Bureau of Parks and Lands, Submerged Lands Program, reviewed the original application and determined that a submerged lands lease is not required for the proposed rock dam repair and fish-way construction. The proposed reconstruction is in the same location.

40. The Maine Historical Preservation Commission has reviewed the application and based on the information submitted, the proposed undertaking will have no adverse effects upon this historic property.

41. The Maine Natural Areas Program has reviewed the application and indicates that there are no rare botanical features documented specifically within the project area.

42. The Maine State Soil Scientist has review the application and commented that the design would spread the flows over a wider area than the previous design, which in combination with the rock design would result in less potential for scouring from the discharge into the river channel.

43. The US Fish and Wildlife Service has reviewed the application and stated that the overall plan was good. They offered recommendations for a slight revision to the fish-way low-flow channel design. They recommended the following cross section dimensions: 2.5 foot wide at the top tapering to 1.5 foot wide at the bottom of the .9 foot deep "v" shaped channel. The location of the fish-way low-flow channel would remain unchanged in the middle of the 70 foot wide "Primary Spillway". The applicant has accepted this revision and incorporated it into a revised final plan design.

44. The National Oceanic and Atmospheric Agency (NOAA) has deferred to the US Fish and Wildlife Agency for federal comment and review on this State permit application.

45. The facts are otherwise as represented in Shoreland Alteration Permit Application SA 1068 B and supporting documents.

Based upon the above Findings, the staff concludes that:

46. In accordance with Section 10.25,C of the Commission's Land Use Districts and Standards, the applicant has retained a qualified consultant to design the proposed reconstructed rock dam with fish passage. The applicant asserts that qualified staff and a qualified contractor will be retained to work with the engineering firm to reconstruct the rock dam with fish passage in accordance with the approved plans. The applicant has adequate financial resources to construct the proposed rock dam reconstruction project in a manner that would meet the criteria of all state and federal laws and standards of these rules.

47. In accordance with Section 10.25,M of the Commission's Land Use Districts and Standards, the design of the proposed reconstructed rock dam with fish passage will keep soil disturbance to a practicable minimum. The proposed erosion and sedimentation control measures will meet the applicable standards and specifications of the "Maine Erosion and Sediment Control BMP's" (Maine Department of Environmental Protection, March 2003) or other equally effective practices. Areas of disturbed soils will be stabilized according to the "Guidelines for Vegetative Stabilization" (Appendix B of this Chapter) or by alternative measures that are equally effective in stabilizing soils. In addition, turbidity curtains will be deployed within the waterway during the dam reconstruction project.

48. In accordance with Section 10.25,P,1,b,(2) of the Commission's Land Use Districts and Standards, because the area of P-WL1 wetland alteration would be more than 500 square feet, mitigation, including compensation, may be required. Commission staff has concluded that the majority of the wetlands area disturbed by the proposed dam reconstruction is a wetland area previously disturbed during the original rock dam construction and again during the 2014 rock dam reconstruction with fish passage project. Additionally, as a basis for the original 2013 permitting decision, Commission staff, in conjunction with the Maine Department of Inland Fisheries and Wildlife's Regional Fisheries Biologist, had determined that the proposed installation of fish passage over the rock dam constitutes adequate compensation for the area of wetlands not previously disturbed. The expanded area of disturbance required for the 30:1 slope for the fish-way within the extended spillway will require re-shaping the existing rock substrate. Any impact to the functions and values of the existing rock substrate with the added rock material would be insignificant. This is especially the case in light of the benefit to the fisheries in the river and supported by DEP's comments that the proposal will not result in lost wetland function or values.

49. In accordance with Section 10.25,P,1,c,(3) of the Commission's Land Use Districts and Standards, the proposed dam repairs qualify for reduction to a Tier 2 review. Specifically, there would be no undue adverse impact to Second Roach Pond in that the completion of the project would result in long term stabilization of the site and a return to historic seasonally fluctuating water levels. Additionally, the impacted areas have been limited to the minimum amount necessary to complete the project and no net loss of wetland functions and values is anticipated.

50. The proposed activities would meet the standards in Section 10.25,P,2 for a Tier 2 review. Specifically, there is no practicable alternative that does not involve reconstruction of the rock dam, and there would be no significant loss of wetland area as a result of the project; the impact to the (P-WL) Wetland Protection Subdistrict has been limited to the minimum amount necessary to complete the project; and the project would not violate the state's law or standards for the water quality classifications for Second Roach Pond or the Roach River.

51. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A. The applicant has designed the rock dam with fish passage to fit harmoniously into the existing natural pond and river environment so that there will be no

undue adverse effect on existing uses and natural resources in the area; the proposal will not cause unreasonable soil erosion; and the proposal is otherwise in conformance with Chapter 206-A and the regulations, standards and plans adopted pursuant thereto.

Therefore, the staff approves the application of AMC with the following conditions:

1. The Standard Conditions for Shoreland Alterations (ver. 4/91), a copy of which is attached.

2. The reconstruction of the existing rock dam must be limited to the proposal as submitted, including all monitoring and erosion control measures. The work authorized by this permit is shown on plans prepared by Wright-Pierce entitled: "Appalachian Mountain Club Second Roach Pond Dam" in 7 sheets; Sheets C-1, C-2, C-3, C-6 & C-7 are dated May 29, 2015, Sheets C-4 & C-5 are dated May 29, 2015 revised June 22, 2015.

3. All construction must be done during a period of low water between July 15 and October 1 under the supervision of the engineering firm that designed the project or another qualified engineer.

4. The reconstructed dam must not cause the water level of Second Roach Pond to be raised above the normal seasonal fluctuations of water levels comparable to those that existed within 5 years prior to the 2014 dam construction. (As a general reference and based on the elevations shown on Sheet C-5, the Median April Water Surface Elevation is 1267.05, which represents the seasonal high water level and the Median August Water Surface Elevation is 1266.5, which represents the seasonal low water level for Second Roach Pond at the dam.) At no time may flow to Roach River be blocked.

5. Prior to commencement of construction, notify the Greenville Office of the Land Use Planning Commission.

6. In accordance with paragraphs 11 C & D of the Settlement Agreement EC 14-47, within four weeks of completion of the construction authorized by this permit, AMC shall submit a report from a licensed engineer that certifies the final elevations of the dam and fish passage structures are compliant with the approved plans.

7. Work shall be suspended during thunderstorm events. Any machinery operating below or adjacent to the normal high water mark must be driven on a bed of logs, mats or firm rock surface to prevent undue disturbance of lakebed materials. No equipment may be driven below the normal low water mark across the unprotected lake bottom beyond the limits of the project area within Second Roach Pond or Roach River.

8. The materials removed during the dam reconstruction must be disposed of in accordance with the State of Maine Solid Waste Disposal Laws. Construction debris must not be disposed of in a wetland. All construction debris must be removed from the lake and stream.

9. Upon completion of the projects, all areas of exposed mineral soil above the normal high water mark of Second Roach Pond and the Roach River must be stabilized and revegetated in accordance with the provisions of the applicant's Erosion Control Plan.

10. Silt fencing, staked hay bales, sand bags or coffer dams must be placed between the work area and the water, prior to construction activities, to prevent sedimentation to the lake and river. Once implemented or

put in place, erosion control devices and measures must be maintained to ensure proper functioning. Should any erosion or sedimentation occur during construction, the permittee shall cease construction and contact the Commission immediately, notifying it of the problem and describing all proposed corrective measures.

11. Flowable fill must not come into contact with water that could enter the waterbody.

12. Riprap must be installed in accordance with the Standards for Installation of Riprap (ver. 4/91), a copy of which is attached, except that riprap may be located below the normal high water mark in order to key-in the riprap and rock work needed for structural shore protection, the fish passage and the rock dam.

13. Filter fabric must be installed under the rocks along the bank in order to prevent fine particles from washing into the waterbody.

14. Any bolts, screws, rods, pads or other metallic fixtures used during construction must be of rustproof metals.

15. Prior to commencement of construction, obtain approval from the U.S. Army Corps of Engineers and comply with all conditions of their approval (Permit #NAE-2011-01663).

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Planning Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS THIRTEENTH DAY OF JULY, 2014.

for: Roderick T. Falla
Nicholas D. Livesay, Executive Director